

# **PROPERTY LAW - INTRODUCTORY MATERIALS**

## **VOLUME IV**

Arnold Weinrib  
Faculty of Law  
University of Toronto

These materials are reproduced solely for the use of  
students in the Faculty of Law, University of  
Toronto

1993 - 94

Storage

KF  
560  
W44  
1993  
v.4

BORA LASKIN LAW LIBRARY



3 1761 03868 5046

BORA LASKIN LAW LIBRARY

FEB 10 1994

FACULTY OF LAW  
UNIVERSITY OF TORONTO

**PROPERTY LAW - INTRODUCTORY MATERIALS**

**VOLUME IV**

Arnold Weinrib  
Faculty of Law  
University of Toronto

These materials are reproduced solely for the use of  
students in the Faculty of Law, University of  
Toronto

1993 - 94

Digitized by the Internet Archive  
in 2019 with funding from  
University of Toronto

<https://archive.org/details/propertylawcases04wein>

## LANDLORD AND TENANT

### A. The Relationship and its Consequences

#### 1. TENANTS AND LICENSEES

Re B.A. Oil and Halpert	1
Shell-Mex and B.P. Ltd. v. Manchester Garages Ltd.	10
Street v. Mountford	13
Family Housing Association v. Jones	18

#### 2. CONSEQUENCES OF THE LEASEHOLD RELATIONSHIP

Stewart v. Child's Co.	27
Goldhar v. Universal Sections and Mouldings Ltd.	28
Highway Properties Ltd. v. Kelly, Douglas and Co.	40
North Bay T.V. and Audio Ltd. v. Nova Electronics	49
Note: Keneric Tractor v. Langille	54

### B. Landlord's Obligations

#### 1. QUIET ENJOYMENT

Owen v. Gadd	55
Kenny v. Preen	60
Note	64

#### 2. NON-DEROGATION FROM GRANT

Harmer v. Jumbil (Nigeria) Tin Areas Ltd.	66
Caplan v. Acadian Machinery Ltd.	69
Port v. Griffith	70
Note	74

#### 3. FITNESS FOR USE

Smith v. Marrable	75
Sutton v. Temple	77
Hart v. Windsor	78
Bryner v. Thompson	81
Note	82
Barrett v. Lounova (1984) Ltd.	83
Johnson v. Givens	89

#### 4. STATUTORY DUTY TO REPAIR

Pajelle Investments Ltd. v. Herbold	94
Note	101
McQuestion v. Schneider	102
Note	104

## C. Tenant's Obligations

Landlord and Tenant Act	105
1. PAYMENT OF RENT AND DEFENCES FROM RENT ACTIONS	
(a) Surrender and Abandonment	
Note	108
Windmill Place v. APECO of Canada Ltd.	109
Toronto Housing Co. Ltd. v. Postal Promotions Ltd. (Ont H.C.)	113
Toronto Housing Co. Ltd. v. Postal Promotions Ltd. (Ont. C.A.)	118
(b) Frustration	
Waddams, "The Law of Contracts"	120
Note	121
(c) Illegality	
Note	122
2. RESTRICTIONS ON USER AND DUTY TO REPAIR	
McQuaig v. Lalonde	123
Note	127
Norbury Sudbury Ltd. v. Noront Steel (1981) Ltd.	128
3. RELIEF FROM FORFEITURE	
Re Jeans West Unisex Ltd. and Hung	141
Note	146

## D. Transfer by the Tenant

1. CONSEQUENCES OF TRANSFER	
Francini v. Canuck Properties Ltd.	148
2. NEED FOR LANDLORD'S LEAVE	
Wakefield v. Cottingham	151
Lifshitz v. Forest Square Apts. Ltd.	159

3. REASONABLENESS OF LANDLORD'S REFUSAL

Landlord and Tenant Act	163
Houlder Bros. and Co. v. Gibbs	164
Note	174
Re Griff and Somerset Management Services Ltd.	176
Federal Business Development Bank v. Starr et al.	179

